



## State of Utah

### Department of Natural Resources

MICHAEL R. STYLER  
*Executive Director*

### Division of Oil, Gas & Mining

JOHN R. BAZA  
*Division Director*

JON M. HUNTSMAN, JR.  
*Governor*

GARY R. HERBERT  
*Lieutenant Governor*

November 28, 2005

James Fulton, Chief  
Denver Field Division  
Office of Surface Mining  
1999 Broadway, Suite 3320  
Denver, Colorado 80202-5733

Re: Proposed Program Amendment to the Utah Coal Rules at R645-301-100 – General Contents; R645-303-200 – Permit Review, Change and Renewal; R645-301-500 – Engineering; and R645-401-300 – Point System for Penalties

Dear Mr. Fulton:

The State of Utah has made changes to the above-listed parts of the coal rules and now submits these for your review for addition as a part of our Coal Regulatory Program. We do not feel that these changes significantly change the State's regulatory program, just clarify and strengthen certain parts of the rules. This is submitted to you as a formal amendment.

The form of the enclosures is in the standard changes-shown format, that is, additions are underlined and deletions are stricken through and bracketed. Please examine these rule changes at your earliest possible convenience. Contact Mary Ann Wright, Ron Daniels or me if there are any questions or concerns on the enclosed materials.

Sincerely,

A handwritten signature in black ink, appearing to read "John R. Baza".

A handwritten signature in black ink, appearing to read "John R. Baza".

John R. Baza  
Director

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Enclosure  
O:Ron/6Amendmentltr-dh



**R645. Natural Resources; Oil, Gas and Mining; Coal.**

**R645-301. Coal Mine Permitting: Permit Application Requirements.**

**R645-301-100. General Contents.**

The rules in R645-301-100 present the requirements for the entitled information which should be included in each permit application.

110. Minimum Requirements for Legal, Financial, Compliance and Related Information.

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140. Maps and Plans.

141. Maps submitted with permit applications will be presented in a consolidated format, to the extent possible, and will include all the types of information that are set forth on U.S. Geological Survey of the 1:24,000 scale series. Maps of the permit area will be at a scale of 1:6,000 or larger. Maps of the adjacent area will clearly show the lands and waters within those areas and be at a scale determined by the Division, but in no event smaller than 1:24,000.

142. All maps and plans submitted with the permit application will distinguish among each of the phases during which coal mining and reclamation operations were or will be conducted at any place within the life of operations. At a minimum, distinctions will be clearly shown among those portions of the life of operations in which coal mining and reclamation operations occurred:

142.100 Prior to August 3, 1977;

142.200 After August 3, 1977, and prior to either:

142.210. May 3, 1978; or

142.220 In the case of an applicant or operator which obtained a small operator's exemption in accordance with the Interim Program rules (MC Rules), January 1, 1979;

142.300 After May 3, 1978 (or January 1, 1979, for persons who received a small operator's exemption) and prior to the approval of the State Program; and

142.400 After the estimated date of issuance of a permit by the Division under the State Program.

150. Completeness. An application for a permit to conduct coal mining and reclamation operations will be complete and will include at a minimum information required under R645-301 and, if applicable, R645-302.

160. Permit change, renewal, transfer, sale and assignment.

Procedures to change, renew, transfer, assign, or sell existing coal mining and reclamation permit rights are presented at R645-303.

**KEY: reclamation, coal mines**

**[~~October 1, 2001~~2003]**

**Notice of Continuation March 26, 2002**

40-10-1 et seq.

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**R645. Natural Resources; Oil, Gas and Mining; Coal.**

**R645-301. Coal Mine Permitting: Permit Application Requirements.**

**R645-301-500. Engineering.**

The rules in R645-301-500 present the requirements for engineering information which is to be included in a permit application.

510. Introduction. The engineering section of the permit application is divided into the operation plan, reclamation plan, design criteria, and performance standards. All of the activities associated with the coal mining and reclamation operations must be designed, located, constructed, maintained, and reclaimed in accordance with the operation and reclamation plan. All of the design criteria associated with the operation and reclamation plan must be met.

511. General Requirements. Each permit application will include descriptions of:

511.100. The proposed coal mining and reclamation operations with attendant maps, plans, and cross sections;

511.200. The proposed mining operation and its potential impacts to the environment as well as methods and calculations utilized to achieve compliance with design criteria; and

511.300. Reclamation.

512. Certification.

512.100. Cross Sections and Maps. Certain cross sections and maps required to be included in a permit application will be prepared by, or under the direction of, and certified by: a qualified, registered, professional engineer; a professional geologist; or a qualified, registered, professional land surveyor, with assistance from experts in related fields such as hydrology, geology and landscape architecture[~~and~~]. Cross sections and maps will be updated as required by the Division. The following cross sections and maps will be certified:

512.110. Mine workings to the extent known as described under R645-301-521.110;

512.120. Surface facilities and operations as described under R645-301-521.124, R645-301-521.164, R645-301-521.165 and R645-301-521.167;

512.130. Surface configurations as described under R645-301-542.300 and R645-302-200;

512.140. Hydrology as described under R645-301-722, and as appropriate, R645-301-731.700 through R645-301-731.740; and

512.150. Geologic cross sections and maps as described under R645-301-622.

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**KEY: reclamation, coal mines**

**[~~October 1, 2001~~2003]**

Notice of Continuation March 26, 2002

40-10-1 et seq.

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**R645. Natural Resources; Oil, Gas and Mining; Coal.**

**R645-303. Coal Mine Permitting: Change, Renewal, and Transfer, Assignment, or Sale of Permit Rights.**

**R645-303-200. Permit Review, Change and Renewal.**

210. Division Review of Permits.

211. The Division will review each permit issued and outstanding under the State Program during the term of the permit. This review will occur not later than the middle of each permit term and as follows:

211.100. Permits with a term longer than five years will be reviewed no less frequently than the permit midterm or every five years, whichever is more frequent;

211.200. Permits with variances granted in accordance with R645-302-220 and R645-302-280 will be reviewed no later than three years from the date of issuance of the permit unless, for variances issued in accordance with R645-302-220, the permittee affirmatively demonstrates that the proposed development is proceeding in accordance with the terms of the permit; and

211.300. Permits containing experimental practices issued in accordance with R645-302-210 and permits with a variance from approximate original contour requirements in accordance with R645-302-270 will be reviewed as set forth in the permit or at least every two and one-half years from the date of issuance as required by the Division in accordance with R645-302-217 and R645-302-273, respectively.

212. After the review required by R645-303-211, or at any time, the Division may, by order, require reasonable permit change in accordance with R645-303-220 to ensure compliance with the State Program.

213. Any order of the Division requiring permit change will be based upon written findings and will be subject to the provisions for administrative and judicial review under R645-300-200. Copies of the order will be sent to the permittee.

214. Permits may be suspended or revoked in accordance with R645-400.

220. Permit Changes.

221. At any time during the term of a permit, the permittee may submit to the Division, pursuant to R645-303-220, an Application for Permit Change. The Division will review and respond to an initial Application for a Permit Change within 15 days of receipt of the application.

222. The operator will obtain approval of a permit change by making application in accordance with R645-303-220 for changes in the method of conduct of mining or reclamation operations or in the conditions authorized or required under the approved permit; provided, however, that any extensions to the approved permit area, except for Incidental Boundary Changes, must be processed and approved using the procedural requirements of R645-303-226~~[through application for a new permit and may not be approved under R645-303-221 through R645-303-228]~~.

223. The Application for Permit Change will identify the proposed change, or changes, and include the information required under, R645-301, and R645-302 to the extent applicable to the proposed change or changes. The Application for Permit Change will be categorized as a Significant Permit Revision if it involves any of the changes or circumstances set forth in R645-303-224. All other Applications for Permit Change, including Incidental Boundary Changes, will be categorized as Permit Amendments.

224. An Application for Permit Change must be categorized and processed as a Significant Permit Revision for any of the following changes or circumstances:



224.100. An increase in the size of the surface or subsurface disturbed area in an amount of 15 percent, or greater, than the disturbed area under the approved permit;

224.200. Engaging in operations outside of the cumulative impact area as defined in the Cumulative Hydrologic Impact Assessment (CHIA);

224.300. Engaging in operations in hydrologic basins other than those authorized in the approved permit;

224.400. In order to continue operation after the cancellation or material reduction of the liability insurance policy, capability of self-insurance, performance bond, or other equivalent guarantee upon which the original permit was issued; or

224.500. As otherwise required under applicable law or regulation.

225. Applications for Significant Permit revisions and Permit Amendments will be submitted to the Division at least 120 days and 60 days, respectively, before the change in operations is expected to be implemented.

226. Significant Permit Revisions as provided in R645-303-224 will be reviewed and processed by the Division in accordance with the requirements of R645-300-100 and R645-300-200, and the information requirements of R645-301 and R645-302, including requirements for notice, public participation, and notice of decision.

227. Permit Amendments will be processed in accordance with the requirements of R645-300-100 and R645-300-200, and the information requirements of R645-301 and R645-302, except that permit amendments will not be subject to requirements for notice, public participation, or notice of decision of R645-300-100.

228. The Division will approve or disapprove the Application for Significant Permit Revisions and Permit Amendments, within 120 days and 60 days, respectively, of receipt by the Division of the Administratively Complete Application for Permit Change. The Director may extend the designated time period if it is determined that due to weather conditions, or other considerations, it is physically impossible to perform the review of the Application for Permit Change within that time period.

230. Permit Renewals.

231. General. A valid permit, issued pursuant to the State Program, will carry with it the right of successive renewal, within the approved boundaries of the existing permit, upon expiration of the term of the permit.

232. Application Requirements and Procedures.

232.100. An application for renewal of a permit will be filed with the Division at least 120 days before expiration of the existing permit term.

232.200. An application for renewal of a permit will be in the form required by the Division and will include at a minimum:

232.220. Evidence that a liability insurance policy or adequate self-insurance under R645-301-800 will be provided by the applicant for the proposed period of renewal;

232.230. Evidence that the performance bond in effect for the operation will continue in full force and effect for any renewal requested, as well as any additional bond required by the Division pursuant to R645-301-800;

232.240. A copy of the proposed newspaper notice and proof of publication of same, as required by R645-300-121.100; and

232.250. Additional, revised, or updated information required by the Division.

232.300. Applications for renewal will be subject to the requirements of public



notification and public participation contained in R645-300-120 and R645-300-152.

232.400. If an application for renewal includes any proposed revisions to the permit, such revisions will be identified and subject to the requirements of R645-303-220.

232.500. Irrespective of any other R645 rule requirements for permitting coal mining and reclamation operations, a permittee may renew a permit for the purpose of reclamation only if solely reclamation activities remain to be done and no coal will be extracted, processed, or handled. Obligations established under a permit will continue regardless of whether the authorization to extract, process, or handle coal has expired or has been terminated, revoked, or suspended.

**233. Approval Process.**

233.100. Criteria for approval. The Division will approve a complete and accurate application for permit renewal, unless it finds, in writing that:

233.110. The terms and conditions of the existing permit are not being satisfactorily met;

233.120. The present coal mining and reclamation operations are not in compliance with the environmental protection standards of the State Program;

233.130. The requested renewal substantially jeopardizes the operator's continuing ability to comply with the State Program on existing permit areas;

233.140. The operator has not provided evidence of having liability insurance or self-insurance as required in R645-301-890;

233.150. The operator has not provided evidence that any performance bond required to be in effect for the operation will continue in full force and effect for the proposed period of renewal, as well as any additional bond the Division might require pursuant to R645-301-800; or

233.160. Additional, revised, or updated information required by the Division under R645-303-232.250 has not been provided by the applicant.

233.200. Burden of Proof. In the determination of whether to approve or deny a renewal of a permit, the burden of proof will be on the opponents of renewal.

233.300. Alluvial Valley Floor Variance. If the coal mining and reclamation operation authorized by the original permit was not subject to the standards contained in sections 40-10-11(2)(e)(i) and (ii) of the Act and R645-302-320, because the permittee complied with the exceptions in the proviso to section 40-10-11(2)(e)(ii) of the Act, the portion of the application for renewal of the permit that addresses new land areas previously identified in the reclamation plan for the original permit will not be subject to the standards contained in sections 40-10-11(2)(e)(i) and (ii) of the Act and R645-302-320.

234. Renewal Term. Any permit renewal will be for a term not to exceed the period of the original permit established under R645-300-150.

235. Notice of Decision. The Division will send copies of its decision to the applicant, to each person who filed comments or objections on the renewal, to each party to any informal conference held on the permit renewal, and to the Office.

236. Administrative and Judicial Review. Any person having an interest which is or may be adversely affected by the decision of the Division will have the right to administrative and judicial review set forth in R645-300-200.

**KEY: reclamation, coal mines**

**[1994]2003**

**Notice of Continuation March 26, 2002**



**R645. Natural Resources; Oil, Gas and Mining; Coal.**

**R645-401. Inspection and Enforcement: Civil Penalties.**

**R645-401-300. Point System for Penalties.**

310. Amount of Penalty. In determining the amount of the penalty, if any, to be assessed, consideration will be given to:

311. The operator's history of previous violations at the particular coal mining and reclamation operation, regardless of whether any led to a civil penalty assessment. Special consideration will be given to violations contained in or leading to a cessation order. However, a violation will not be considered if the notice or order containing the violation meets the conditions described in R645-401-321.100 or R645-401-321.200.

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330. Determination of Amount of Penalty. The assessment officer will determine the amount of any civil penalty converting the total number of points assigned under R645-401-320 to a dollar amount, according to the following schedule:

TABLE

[POINTS-DOLLARS

1	10
2	20
3	30
4	40
5	50
6	60
7	70
8	80
9	90
10	100
11	110
12	120
13	130
14	140
15	150
16	160
17	170
18	180
19	190
20	200
21	220
22	240
23	260
24	280
25	300
26	320
27	340
28	360
29	380
30	400
31	420
32	440
33	460
34	480
35	500
36	520
37	540
38	560
39	580
40	600
41	640
42	680
43	720
44	760
45	800

46	840
47	880
48	920
49	960
50	1000
51	1040
52	1080
53	1120
54	1160
55	1200
56	1240
57	1280
58	1320
59	1360
60	1400
61	1440
62	1560
63	1640
64	1720
65	1800
66	1880
67	1960
68	2040
69	2120
70	2200
71	2280
72	2360
73	2440
74	2520
75	2600
76	2680
77	2760
78	2840
79	2920
80	3000
81	3080
82	3160
83	3240
84	3320
85	3400
86	3480
87	3560]

Points	Dollars
1	22
2	44
3	66
4	88
5	110
6	132
7	154
8	176
9	198
10	220
11	242
12	264
13	286
14	308
15	330
16	352
17	374
18	396
19	418
20	440
21	462
22	484
23	506
24	528
25	550
26	660
27	770
28	880
29	990
30	1,100
31	1,210
32	1,320
33	1,430
34	1,540
35	1,650
36	1,760



37	1,870
38	1,980
39	2,090
40	2,200
41	2,310
42	2,420
43	2,530
44	2,640
45	2,750
46	2,860
47	2,970
48	3,080
49	3,190
50	3,300
51	3,410
52	3,520
53	3,630
54	3,740
55	3,850
56	3,960
57	4,070
58	4,180
59	4,290
60	4,400
61	4,510
62	4,620
63	4,730
64	4,840

#### **R645-401-400. Assessment of Separate Violations for Each Day.**

410. The assessment officer may assess separately a civil penalty for each day from the date of issuance of the notice of violation or cessation order to the date set for abatement of the violation. In determining whether to make such an assessment, the assessment officer will consider the factors listed in R645-401-300 and may consider the extent to which the permittee gained any economic benefit as a result of a failure to comply. For any violation which continues for two or more days, and which is assigned more than [80]64 points under R645-401-320, the assessment officer will assess a civil penalty for a minimum of two separate days.

420. Whenever a violation contained in a notice of violation or cessation order has not been abated within the abatement period set in the notice or order, a civil penalty of not less than \$750.00 will be assessed for each day during which such failure continues, except that, if the permittee initiates review proceedings with respect to the violation, the abatement period will be extended as follows:

421. If suspension of the abatement requirements of the notice or order is ordered in a temporary relief proceeding under the State Program, after determination that the permittee will suffer irreparable loss or damage from the application of the requirements, the extended period permitted for abatement will not end until the date on which the board issues a final order; and

422. If the permittee initiates review proceedings under the State Program with respect to the violation, in which the obligations to abate are suspended by the court pursuant to the State Program, the daily assessment of a penalty will not be made for any period before entry of a final order by the court.

430. Such penalty for the failure to abate the violation will not be assessed for more than 30 days for each violation. If the permittee has not abated the violation within the 30-day period, the Division will within 30 days appeal such noncompliance to the Board for resolution under Subsections 40-10-20(5), 40-10-20(6), 40-10-22(1)(d), or 40-10-22(2) of the Act, or by other appropriate means.

**KEY: reclamation, coal mines**



~~[October 1, 1999]~~2003

Notice of Continuation April 19, 1999

40-10-1 et seq.

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